

## REMARKS

### DISQUALIFICATION OF REFERENCE AS PRIOR ART UNDER 35 U.S.C. § 103

The instant Application (Serial No. 09/301,749) and the document relied upon by the Examiner, U.S. Patent No. 5,884,278 to Powell (Powell '278), at the time the invention of instant Application was made, were owned by SoftCard Systems, Inc. Thus, Powell '278 cannot be a reference under 35 U.S.C. § 103/102(e).<sup>1</sup> See MPEP 706.02(I)(1).

### OTHER REMARKS

Claims 19, 21-24, 26, 28, 29, and 31-34 will be pending in the Application after the Examiner enters the forgoing amendment.

Applicant has amended independent claim 19 to include, *inter alia*, the features of claim 20, which was rejected under 35 U.S.C. § 103/102(e) only. Since the reference applied in that rejection has now been disqualified, claims 19, 21-24, 26, and 28 should now be in condition for allowance.

Applicant has amended independent claim 29 to include, *inter alia*, the features of claim 30, which was rejected under 35 U.S.C. § 103/102(e) only. Since the reference applied in that rejection has now been disqualified, claims 29, and 31-34 should now be in condition for allowance.

If there are any other fees required for entry of this amendment, or for any other


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<sup>1</sup> In Applicant's Appeal Brief, note 4, Applicant advised the PTO that the '278 Patent could be eliminated as a reference.

reason, please charge such fees to the undersigned attorney's Deposit Account No. 10-0077.

If the Examiner has any questions about this amendment, applicant's representative would appreciate discussing this amendment with the Examiner. Applicant's representative, Jerome Jackson, can be reached at 703-684-4840.

Respectfully submitted,

  
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